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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/825,412

04/03/2001

Grant Hood

071235.0113

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05/19/2006

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EXAMINER

AVELLINO, JOSEPH E

ART UNIT

PAPER NUMBER

2143

DATE MAILED: 05/19/2006

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/825,412  
Filing Date: April 03, 2001  
Appellant(s): HOOD ET AL.

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Matthew Zischka  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed March 21, 2005 appealing from the Office action mailed April 21, 2005.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

No amendment after final has been filed.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is deficient. 37 CFR 41.37(c)(1)(v) requires the summary of claimed subject matter to include: (1) a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number, and to the drawing, if any, by reference characters and (2) for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters. The brief is deficient because the summary of the Invention does not reference to neither the specification, nor to any figures.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

No evidence is relied upon by the examiner in the rejection of the claims under appeal.

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-14, and 16-20, are rejected under 35 U.S.C. 103(a) as being unpatentable over Ziskind et al. (US pub. 2002/0073343) (hereinafter Ziskind) in view of Haste, III (USPN 6,665,389) (hereinafter Haste).

1. Referring to claim 1, Ziskind discloses a method of facilitating exchange of messages at a computerized message exchange system, comprising:

storing a first plurality of usernames at said system, each of said first plurality of users associated with users of a first introduction service provider (i.e. AOL, MSN messenger, Yahoo! Messenger, etc.) (Figure 1; p. 2, ¶ 30-31);

storing a second plurality of usernames at said system, each of said first plurality of users associated with users of a second introduction service provider (i.e. AOL, MSN messenger, Yahoo! Messenger, etc.) (e.g. abstract; Figure 1; p. 2, ¶ 22, 30-31);

allowing users associated with said first introduction service provider access to selected ones of said second plurality of said second plurality of usernames, based on criteria associated with an originator of each of said selected ones of said second

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greetings, and criteria set by said first introduction services provider (i.e. an authorized user of the first system) (e.g. abstract; Figure 1).

Ziskind does not disclose storing a plurality of greetings at said system which greetings are associated with users. In analogous art, Haste discloses an introduction services provider which stores a plurality of greetings (i.e. video, and audio clip) at the server (Figure 1B). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Haste with Ziskind to provide blocking access of personal information to strangers in order to keep information private and confidential, thereby increasing overall personal security as supported by Haste (col. 1, lines 40-45).

2. Referring to claim 2, Ziskind discloses allowing limits said second plurality of usernames to usernames associated with users of introduction service providers authorized by said first introduction service provider (i.e. only allowed to talk to people registered on the second site through the mediating server) (Figure 2, reference character 26-30). Ziskind does not disclose storing greetings, rather usernames. In analogous art, Haste discloses storing a plurality of greetings at the server (Figure 1B). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Haste with Ziskind to provide blocking access of personal information to strangers in order to keep information private and confidential, thereby increasing overall personal security as supported by Haste (col. 1, lines 40-45).

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3. Referring to claim 3, Ziskind discloses the invention substantively as described in claim 2. Ziskind does not specifically disclose limiting greetings accessed to those sanctioned by said first introduction service provider. Haste discloses matching greetings between people by matching a criteria based on the first person's desire to meet people pertaining to the same interests (e.g. abstract). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Haste with Ziskind to provide blocking access of personal information to strangers in order to keep information private and confidential, thereby increasing overall personal security as supported by Haste (col. 1, lines 40-45).

4. Referring to claim 4, Ziskind discloses using data stored within a first field (i.e. in a database field) to determine users of other service providers are authorized by said first introduction service provider (i.e. if they are not authorized by the mediating server, then they are unable to interact with any users on the first provider) (Figure 1). Ziskind does not disclose storing greetings, rather usernames. In analogous art, Haste discloses storing a plurality of greetings at the server (Figure 1B). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Haste with Ziskind to provide blocking access of personal information to strangers in order to keep information private and confidential, thereby increasing overall personal security as supported by Haste (col. 1, lines 40-45).

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5. Referring to claim 5 and 6, Ziskind discloses the invention substantively as described in claim 4. Ziskind does not disclose using a second data field to determine which interests are sanctioned by the first service provider in order to determine which of second greetings to retrieve by a database query. Haste discloses storing interests of a user in order to query a database in order to retrieve other users sanctioned by the first user (col. 2, lines 45-61). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Haste with Ziskind to provide blocking access of personal information to strangers in order to keep information private and confidential, thereby increasing overall personal security as supported by Haste (col. 1, lines 40-45).

6. Referring to claims 7-9, Ziskind in view of Haste disclose the invention substantively as described in claim 6. Ziskind in view of Haste do not disclose the first and second fields are binary masks and the service provider identifiers are determined by using the binary mask in the first field. It is an inherent feature that the system of Ziskind must somehow determine which service provider a user corresponds to in order to figure out which affiliate messenger website to query for authentication information, however does not specifically state that this is done using a binary mask. "Official Notice" is taken that both the concept advantages of providing for binary mask fields in databases is well known and expected in the art. It would have been obvious to one of ordinary skill in the art to include a binary mask to the combined system of Ziskind and Haste to provide for a simplistic method of determining a selected user out of a plurality

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of users in a set, thereby reducing the complexity of the system while allowing for the ease of future upgrades or replacements.

7. Referring to claim 10, Ziskind discloses permitting a user of said first service provider to send a message to said users associated with said selected ones of said second plurality of greetings (e.g. abstract).

8. Referring to claim 11, Ziskind discloses levying a charge for sending said message, and tallying a total of charges for users associated with said first service provider (it is inherent that AOL charges a monthly service fee for being part of their system, and it would be obvious to one of ordinary skill in the art that the system described by Ziskind could levy a charge for being part of this service).

9. Claims 12-14, and 16-17 are rejected for similar reasons as stated above.

10. Referring to claims 18-20, Ziskind discloses the invention substantively as described in claims 1, 12, and 17. Ziskind does not specifically disclose the criteria comprises at least one interest, age, and gender. In analogous art, Haste discloses the criteria comprises interest, age, and gender (Figure 1C).

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ziskind in view of Haste in view of Lamb et al. (USPN 6,747,970) (hereinafter Lamb).



11. Referring to claim 15, Ziskind in view of Haste disclose the invention substantively as described in claim 12. Ziskind in view of Haste does not disclose including an IVR unit for obtaining instructions from the user by with of a telephone network. Lamb discloses another message exchange system which includes an IVR unit for obtaining instructions from the user by with of a telephone network (col. 29, lines 20-25). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Lamb with Ziskind and Haste to allow users of a packet messaging service the use of contacting people by telephone when they do not have a messaging service provider or even Internet, thereby increasing interaction with people and allowing more people to meet one another. It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Haste with Ziskind to provide blocking access of personal information to strangers in order to keep information private and confidential, thereby increasing overall personal security as supported by Haste (col. 1, lines 40-45).

#### **(10) Response to Argument**

Appellant's arguments contained in the brief have been fully considered but are not persuasive.

In the section "Arguments" (starting in Brief, page 3), Issue A, supplies the following arguments to be considered, (1) Ziskind is directed to a system allowing exchange of instant messages, which is fundamentally different purpose than introduction services, therefore a person of ordinary skill would have no motivation to use instant messaging systems and modify them to arrive at an introduction service as suggested by Examiner (Brief, pages 4-5), and (2) Ziskind in view of Haste do not disclose users of a first introduction service provider are given access to greetings of selected users of a second service provider (Brief, page 5). Issue B, (inadvertently recites the "restriction" of claim 15, however it is believed by the Examiner to be a typographical error and should recite "rejection" as supplied in the "Issues" section on page 3), supplies the following argument to be considered, (3) Lamb fails to address the deficiencies of Ziskind and haste as identified above (Brief, page 8).

As to point (1) Appellant has not sufficiently defined what is meant by an "introduction service provider". Appellant states that the principals are "detailed in the background", that they "are designed to introduce specific persons sharing a common interest, *for example*, social or dating purposes" (Brief, page 5, top paragraph) (emphasis added). However, a vague and general description as to what the service provider does, does not necessarily constitute a definition. Furthermore, even assuming Appellant has sufficiently defined what is meant by an "introduction service provider", the system of Haste, III clearly shows an introduction service provider system (i.e. internet based dating service). The combination of Haste and Ziskind would clearly

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motivate the use of a plurality of dating services as evidenced by the plurality of messaging systems (i.e. affiliates) such as those described in Ziskind (page 2, ¶ 22). The system of Haste utilizes various communication methods (i.e. video conferencing, telephone, email, etc.) in order to contact a person using the service (i.e. "make contact via email, telephone, or video conferencing") (e.g. abstract). One of ordinary skill in the art would understand the benefits of incorporating Ziskind with Haste in order to allow multiple users, utilizing multiple affiliated communication providers, the ability to communicate with one another, resulting in an interaction of a wide variety of messengers as supported by Ziskind (p. 1, ¶ 14). By this rationale, the rejection is maintained.

As to point (2), the Examiner agrees with the recitation of cited passages by the Appellant, however disagrees that the combination does not disclose giving access to selected users by the first service provider. As evidenced by the cited passages by the Appellant (specifically p. 3, ¶ 32 of Ziskind) a user directory allowing the user the ability to determine whether or not the user should be visible by others (i.e. notify others that user X has signed on). This way, user Y cannot view user X's information without that the expressed permission of user X. In this fashion, the system gives access to user Y *only those users* which request to be displayed in the user directory. Utilizing the greetings of the internet dating system of Haste, results in multiple affiliated dating and introduction services pooling together resources in order to get a wide variety of

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messengers to communicate with one another. By this rationale, the rejection is maintained.

As to point (3) since the Examiner has clearly shown that the rejection is with merit and that Ziskind in view of Haste does meet the limitations as shown above, it is believed that this argument is without merit and should be considered in view of the responses made to (1) and (2) above. By this rationale, the rejection is maintained.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

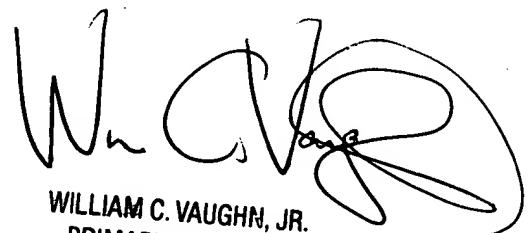
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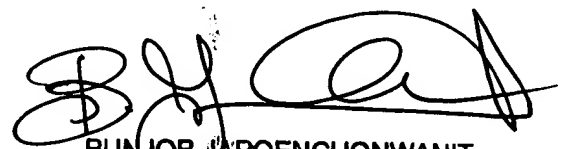
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